

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

KENDRICK W. BLAKENEY

PLAINTIFF

v.

NO. 4:09cv66-HTW-LRA

LIFE INVESTORS INSURANCE
COMPANY OF AMERICA, succeeded in
merger by TRANSAMERICA LIFE
INSURANCE COMPANY

DEFENDANT

STIPULATION AND AGREED ORDER OF REMAND

This cause came on for hearing on Plaintiff's Motion to Remand [Doc. 4] to the Circuit Court for the Second Judicial District of Jasper County, Mississippi and on the following stipulation.

The parties, through their respective counsel, stipulate as follows:

1. This civil action was removed to this Court from the Circuit Court of Jasper County, Mississippi, Second Judicial District, by the Defendant. Plaintiff moved to have the action remanded to the state court. Plaintiff will stipulate and agree that the amount in controversy in this action does not exceed the sum or value of Seventy-five Thousand Dollars (\$75,000), exclusive of interest and costs, and Defendant accepts such binding stipulation on the terms set forth below.

2. It was the original intent of Plaintiff's counsel that all damages which Plaintiff seeks in this civil action, including punitive damages, not exceed the sum or value of \$75,000, exclusive of interest and costs; however, the judicial demand did not state a specific monetary amount.

3. If the case is remanded the claims and damages that Plaintiff has asserted or may hereafter assert - in any way related to the policy of insurance issued to Plaintiff by Defendant or its predecessors - against Defendant, its predecessors, officers, directors, employees, agents or affiliates shall not exceed the sum or value of Seventy-five Thousand Dollars (\$75,000), exclusive of interest and costs, separately or in the aggregate, and any Judgment entered in the state court shall not exceed the total sum or value of \$75,000, exclusive of interest and costs.

4. Plaintiff stipulates and agrees that he will not demand or accept any award of damages, of whatever nature, in an amount that exceeds \$75,000, exclusive of interest and costs, and that if any greater sum is awarded or received, Plaintiff will join in a Motion for Reduction of any such award to an amount that does not exceed that sum.

5. Plaintiff stipulates and agrees that he will not at any time seek to amend his pleadings to seek or demand, will not argue for, will not seek an award of and will not ask for entry of judgment for damages, of whatever nature, in excess of \$75,000, exclusive of interest and costs.

6. This stipulation shall be binding on the Parties, their heirs, assigns, successors and any other person seeking to act for or on behalf of them.

7. In reliance upon the stipulated facts, Defendant does not oppose the Motion to Remand.

Based upon the Motion to Remand [Doc. 4] and the foregoing Stipulation of Counsel, the Court finds that the amount in controversy does not exceed the sum or value of \$75,000, exclusive of interest and costs, as required by 28 U. S. C. §1332(a), with the result that the Court lacks jurisdiction over the subject matter of this action, and it must be remanded to the court from which it was removed.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion to Remand be, and it is hereby, GRANTED.

IT IS FURTHER ORDERED that this civil action is hereby remanded to the Circuit Court for the Second Judicial District of Jasper County, Mississippi to which the Clerk of this Court is directed to return the file forthwith.

SO ORDERED, this, the 26th day of June, 2009.

s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE

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SO STIPULATED, AGREED AND
APPROVED FOR ENTRY:

/s/ Joseph T. Sims

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